



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Louis M. Grump  
County Attorney  
Coleman County  
Coleman, Texas

Dear Sir:

Opinion No. 9-3884

Re: Is the Commissioners' Court authorized under the law to make any payment of county funds to members of the draft board for services rendered by them in carrying out the provisions of the "Selective Training and Service Act of 1940"?

Your letter of August 21, 1941, requesting an opinion of this department upon the above stated question has been received.

We quote from your letter as follows:

"The Commissioners' court of Coleman County has been requested to make a small payment out of County Funds to the members of the local Draft Board, which has been created under what is known as the SELECTIVE SERVICE ACT, by Congress. Pertaining this matter I wish your department would give me an opinion on the following question.

"Is the Commissioners Court of this county, authorized under the law, to make any payments out of County funds to members of the Draft Board for services rendered by them in carrying out the provisions of the Act, that is Selective Service Act?"

"It is my opinion, and I have so advised the Commissioners Court, that under the laws of this State, the Court has no authority to make payments out of County Funds to the members of the local

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draft board, for services rendered in carrying out the terms of the Selective Service Act."

The act authorizing the creation of one or more local boards in each county or political subdivision corresponding thereto of each state, territory, and the District of Columbia is cited as the "Selective Training and Service Act of 1940". Section 10 of this act provides in part:

"Sec. 10. (A) The President is authorized -

"(1) To prescribe the necessary rules and regulations to carry out the provisions of this act;

"(2) To create and establish a selective service system, and shall provide for the classification of registrants and of persons who volunteer for induction under this act on the basis of availability for training and service, and shall establish within the selective service system civilian local boards and such other civilian agencies, including appeal boards and agencies of appeal, as may be necessary to carry out the provisions of this act.

"There shall be created one or more local boards in each county or political subdivision corresponding thereto of each state, territory, and the District of Columbia.

"Each local board shall consist of three or more members to be appointed by the President, from recommendations made by the respective governors or comparable executive officials.

"No member of any such local board shall be a member of the land or naval forces of the United States, but each member of any such local board shall be a civilian who is a citizen of the United States residing in the county or political subdivision corresponding thereto in which such local board has jurisdiction under rules and regulations prescribed by the President. Such local boards, under rules and regulations prescribed by the President, shall have power within their respective jurisdictions to hear and determine, subject to the right of appeal to the appeal

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boards herein authorized, all questions or claims with respect to inclusion for, or exemption or deferment from, training and service under this act of all individuals within the jurisdiction of such local boards.

"The decisions of such local boards shall be final except where an appeal is authorized in accordance with such rules and regulations as the President may prescribe. Appeal boards and agencies of appeal within the selective service system shall be composed of civilians who are citizens of the United States.

"No person who is an officer, member, agent, or employee of the selective service system, or of any such local or appeal board or other agency, shall be exempted from registration, or deferred from training and service, as provided for in this act, by reason of his status as such officer, member, agent or employee.

". . . .

"(4) To utilize the services of any or all departments and any and all officers or agents of the United States and to accept the services of all officers and agents of the several states, territories, and the District of Columbia and subdivisions thereof in the execution of this act;

". . . .

"(C) In the administration of this act voluntary services may be accepted. Correspondence necessary in the execution of this act may be carried in official penalty envelopes.

". . . ."

It is well established in this State that: "Commissioners' Courts are courts of limited jurisdiction, in that their authority extends only to matters pertaining to the general welfare of the respective counties and that their powers are only those expressly or impliedly conferred upon them by law, that is, by the Constitution and statutes of this State." (See Texas Jurisprudence, Vol. 11, p. 564 and the authorities cited thereunder.)

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The authority of the Commissioners' Court as the governing body of the county to make contracts in its behalf is strictly limited to that conferred either expressly or by fair or necessary implication by the Constitution and laws of this State. If the Commissioners' Court acts without authority in making a contract, the county is not bound by its actions. The Commissioners' Court must have authority of law for its contracts, and, if the authority has been given, a reasonable construction of it will be given to effect its purpose. (See Texas Jurisprudence, Vol. 11, p. 632, and authorities cited therein.)

We think that it is clear that the members of the various local boards hold their positions by virtue of the above mentioned Selective Training and Service Act of 1940, and that the Commissioners' Courts of the various counties are not authorized either expressly or by implication to make any payments out of county funds to any member of the various local boards. Therefore, it is the opinion of this department that the above stated question should be answered in the negative, and it is so answered.

We thank you for the brief submitted with your inquiry.

Trusting that the foregoing fully answers your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

APPROVED AUG 29, 1941

*Grove A. Allen*

FIRST ASSISTANT  
ATTORNEY GENERAL

By *Ardell Williams*

Ardell Williams  
Assistant

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